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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Petition to Revoke Probation
11 Against:

Case No. 2003-239

12 **JULIE C. APOLLO**
25200 Carlos Bee Blvd., Apt. 390
13 Hayward, California 94542

**PETITION TO REVOKE
PROBATION**

14 Registered Nurse License No. 516849

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to
20 Revoke Probation solely in her official capacity as the Executive Officer of the Board of
21 Registered Nursing, Department of Consumer Affairs.

22 2. On or about October 13, 1995, the Board of Registered Nursing issued
23 Registered Nurse License Number 516849 to Julie C. Apollo (Respondent). The Registered
24 Nurse License is currently active and will expire on August 31, 2009, unless renewed.

25 3. In a disciplinary action entitled "In the Matter of the Accusation Against
26 Julie C. Apollo," Case No. 2003-239, the Board of Registered Nursing, issued a decision,
27 effective December 6, 2003, in which Respondent's Registered Nurse License was revoked.
28 However, the revocation was stayed and Respondent's was placed on probation for a period of

1 three (3) years with certain terms and conditions.

2 4. In a disciplinary action entitled "In the Matter of Petition to Revoke
3 probation Against Julie C. Apollo," Case No. 2003-239, the Board of Registered Nursing, issued
4 a decision, effective January 5, 2007, in which Respondent's Registered Nurse License was
5 revoked. However, the revocation was stayed and Respondent was placed on probation for a
6 period of two (2) years with certain terms and conditions.

7 JURISDICTION

8 5. This Petition to Revoke Probation is brought before the Board of
9 Registered Nursing (Board), Department of Consumer Affairs, under the authority of the
10 following laws. All section references are to the Business and Professions Code unless otherwise
11 indicated.

12 6. **Section 2750** of the Business and Professions Code ("Code") provides, in
13 pertinent part, that the Board may discipline any licensee, including a licensee holding a
14 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
15 2750) of the Nursing Practice Act.

16 7. **Section 2764** of the Code provides, in pertinent part, that the expiration of
17 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
18 against the licensee or to render a decision imposing discipline on the license.

19 DISCIPLINARY HISTORY

20 8. In a disciplinary action entitled "In the Matter of the Accusation Against
21 Julie C. Apollo," Case No. 2003-239, the Board of Registered Nursing, issued a decision,
22 effective December 6, 2003, in which Respondent's Registered Nurse License was revoked.
23 However, the revocation was stayed and Respondent was placed on probation for a period (3)
24 years with certain terms and conditions. The circumstances leading to Respondent's discipline
25 are as follows: On or about October 25, 2000, in a criminal proceeding entitled People v. Julie
26 Camille Apollo, Alameda County Superior Court Case No. 345397, Respondent was convicted
27 of violating Penal Code 243(b), battery on a police officer.

28 9. In a disciplinary action entitled "In the Matter of Petition to Revoke

1 probation Against Julie C. Apollo,” Case No. 2003-239, the Board of Registered Nursing, issued
2 a decision, effective January 5, 2007, in which Respondent's Registered Nurse License was
3 revoked. However, the revocation was stayed and Respondent was placed on probation for a
4 period of two (2) years with certain terms and conditions. A copy of that decision is attached as
5 Exhibit A and is incorporated by reference. The circumstances leading to Respondent's
6 discipline are as follows:

7 a. Respondent was scheduled to appear to meet with her Board probation
8 monitor on December 3, 2003 to review the terms and conditions of her probation (Probation
9 Orientation Interview). Respondent failed to appear for this scheduled interview.

10 b. The Probation Orientation Interview was subsequently re-scheduled for
11 March 23, 2004. Respondent also failed to appear for this scheduled interview.

12 c. The Probation Orientation Interview was re-scheduled for May 19, 2004.
13 Respondent appeared at the Board on that date, at which time each condition of probation was
14 discussed with Respondent. Respondent signed forms indicating her understanding thereof and
15 her willingness to comply. Respondent stated that she was not licensed in any other state. This
16 statement was false, Respondent was in fact licensed as a registered nurse in Illinois.

17 d. Respondent was scheduled to appear at the Board on December 15, 2004
18 for a Quarterly Probation Meeting. A week prior, Respondent sought a phone interview instead,
19 asserting an inability to drive due to disability, and claiming medical excuse. Respondent was
20 instructed to send an updated note from her doctor regarding her disability and inability to drive.
21 Respondent did not send an updated note, and failed to appear at the Meeting.¹

22 e. On or about April 25, 2005, Respondent's probation monitor sent
23 Respondent a Notice of Violation by certified mail, informing her she was in violation of terms
24 and conditions of her probation including: Condition # 2 (for failing to cooperate); Condition # 3
25 (for failing to appear at a scheduled interview); Condition # 5 (for failing to submit documents
26

27 1. Several months later, on June 25, 2005, Respondent provided a Disability Certificate to
28 the Board, a form from the Redwood Rehab Medical Group, Inc. in Castro Valley, CA, dated
March 25, 2005, asserting that Respondent was “totally incapacitated” June 2004 - March 2005.

re: a required Mental Health Examination, an On-Going Treatment form, and/or a letter from her physician re: inability to drive, work, or take courses); Condition # 11 (for failing to timely complete a Mental Health Examination and failing to have an exam report submitted to the Board by July 1, 2004); Condition # 12 (for failing to submit a required On-Going Treatment form by July 1, 2004); and Condition # 13 (for failing to submit a cost recovery payment plan). Mailed with the Notice was a form for submitting a Mental Health Examination report and an On-Going Treatment form, and the Notice informed Respondent that she needed to meet those requirements/submit those reports by June 10, 2005. Also included was a Cost Recovery Payment Plan form calling for payments to begin on June 1, 2005, with an instruction that Respondent sign and return this form by May 9, 2005. Respondent failed to undergo examination or submit any of the required forms by the required deadlines.

f. On or about June 13, 2005, Respondent's probation monitor mailed her a Self-Report Survey to be completed by June 30, 2005 as an alternative to an in-person interview. Respondent failed to complete or return the Self-Report Survey to her probation monitor.

g. On or about June 23, 2005, in a telephone conversation with her probation monitor, Respondent re-asserted that she was not licensed in any other state.

h. On or about June 28, 2005, Respondent's probation monitor sent a letter reminding Respondent of terms/conditions of probation including: Condition # 2's requirement that she maintain an active license - the letter noted that Respondent's license had been inactive since 1999, and gave her until August 31, 2005 to reactivate; Condition # 6's requirement that she work as a registered nurse - the letter noted her failure to work was explained by disability only through March 2005; Condition # 10's requirement that Respondent complete a nursing course; Condition # 11's requirement that Respondent submit a Mental Health Examination report - the letter gave Respondent until August 15, 2005 to do so; Condition # 12's requirement of possible On-Going Treatment; and Condition # 13's requirement of an approved costs repayment plan.

i. As of March 25, 2006, Respondent had not returned her license to active status, had not submitted any proof of employment as a registered nurse, had not submitted any proof of courses enrolled in or completed, had not submitted a report of a completed Mental

1 Health Examination, had not submitted proof of or a plan for any On-Going Treatment, and had
2 not submitted a payment plan for cost recovery, or made any cost recovery payments.

3 **FIRST CAUSE TO REVOKE PROBATION**

4 (Fingerprints)

5 10. At all times after the effective date of Respondent's probation, Condition
6 One stated:

7 **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full
8 and detailed account of any and all violations of law shall be reported by
9 Respondent to the Board in writing within seventy-two (72) hours of occurrence.
10 Respondent shall submit completed fingerprint forms and fingerprint fees within
11 forty-five (45) days of the effective date of this decision, unless previously
12 submitted as part of the license application process.

13 **Criminal Court Orders:** If Respondent is under criminal court orders, including
14 probation or parole, and the order is violated, this shall be deemed a violation of
15 this probation. Any failure to obey any federal, state, or local law, any failure to
16 report in writing to the Board within seventy-two (72) hours of any such violation
17 of law, any failure to submit completed fingerprint forms and fingerprint fees
18 within forty-five (45) days if required, or any failure to comply with any criminal
19 court orders, including probation or parole, may result in an automatic revocation
20 of the License without notice, process, or opportunity to be heard.

21 11. Respondent's probation is subject to revocation because she failed to
22 comply with Probation Condition One, referenced above. Respondent failed to provide all of the
23 required fingerprint forms within 45 days of the effective date of the decision (February 19,
24 2007). On or about May 9, 2007, Respondent was sent a "Letter of Warning" informing
25 Respondent that she was in violation of the fingerprinting requirement. The "Letter of Warning"
26 gave Respondent until May 23, 2007 to comply with the fingerprinting requirement. Respondent
27 failed to comply with the fingerprint requirement by May 23, 2007. As of July 7, 2008,
28 Respondent has not complied with the fingerprinting requirement.

3 **SECOND CAUSE TO REVOKE PROBATION**

4 (Comply With Board's Probation Program)

5 12. At all times after the effective date of Respondent's probation, Condition
6 Two stated:

7 **Comply with the Board's Probation Program.** Respondent shall fully comply
8 with the conditions of the Probation Program established by the Board and
9 cooperate with representatives of the Board in its monitoring and investigation of

1 the Respondent's compliance with the Board's Probation Program. Respondent
2 shall inform the Board in writing within no more than fifteen (15) days of any
3 address change and shall at all times maintain an active, current license status with
4 the Board, including during any period of suspension.

5 Any failure to comply with the conditions of the Probation Program, any
6 failure to cooperate with representatives of the Board in monitoring that
7 compliance, any failure to inform the Board in writing within fifteen (15) days of
8 any address change, or any failure to maintain an active, current License with the
9 Board, including during any period of suspension, may result in an automatic
10 revocation of the License without notice, process, or opportunity to be heard.

11 13. Respondent's probation is subject to revocation because she failed to
12 comply with Probation Condition Two, referenced above. Failed to comply with the probation
13 program by violating conditions #1, 2, 3, 5, 6, 10, and 13 as described in paragraphs 10-11,
14 above, and paragraphs 14-24, below.

11 THIRD CAUSE TO REVOKE PROBATION

12 (Report in Person)

13 14. At all times after the effective date of Respondent's probation, Condition
14 Three stated:

15 **Report in Person.** Respondent, during the period of probation, shall appear in
16 person at interviews/meetings as directed by the Board or its representatives.

17 Any failure to appear as directed at any interview/meeting may result in an
18 automatic revocation of the License without notice, process, or opportunity to be
19 heard.

20 15. Respondent's probation is subject to revocation because she failed to
21 comply with Probation Condition Three, referenced above. Respondent, refused to appear for
22 entire orientation meeting on April 5, 2007. Respondent appeared for part of the meeting and
23 was uncooperative and combative. Respondent refused to sign any of the required paperwork
24 including the Release of Confidential Information, Probation Summary Report, and Cost
25 Recovery Plan. Respondent accused her probation monitor of altering the probation terms and
26 conditions. Respondent was verbally abusive to her probation monitor and walked out of the
27 meeting. Respondent began walking down the hall into parts of the building that she was not
28 allowed to be in. Respondent ignored repeated requests for her to stop. Respondent was
removed from the building by the California Highway Patrol.

1 **FOURTH CAUSE TO REVOKE PROBATION**

2 (Submit Written Reports)

3 16. At all times after the effective date of Respondent's probation, Condition

4 Five stated:

5 **Submit Written Reports.** Respondent, during the period of probation, shall
6 submit or cause to be submitted such written reports/declarations and verification
7 of actions under penalty of perjury, as required by the Board. These
8 reports/declarations shall contain statements relative to Respondent's compliance
9 with all the conditions of the Board's Probation Program. Respondent shall
10 immediately execute all release of information forms as may be required by the
11 Board or its representatives.

12 Respondent shall provide a copy of this Decision to the nursing regulatory
13 agency in every state and territory in which she has a registered nurse license.

14 Any failure by Respondent to timely submit or cause to be submitted such
15 written reports/declarations and verification of actions under penalty of perjury as
16 may be required by the Board, or any failure to immediately execute a release of
17 information form required by the Board or its representatives, or any failure to
18 provide a copy of this Decision to the nursing regulatory agency in every state and
19 territory in which she has a registered nurse license, may result in an automatic
20 revocation of the License without notice, process, or opportunity to be heard.

21 17. Respondent's probation is subject to revocation because she failed to
22 comply with Probation Condition Five, referenced above. Respondent refused to sign any
23 documents at the April 5, 2007 orientation meeting including, but not limited to: Probation
24 Summary Report, Release of Confidential Information, and Cost Recovery Payment Plan.
25 Respondent failed to timely submit a quarterly report for the April 1, 2007-June 30, 2007 time
26 period. Respondent failed to timely submit a quarterly report for the July 1, 2007-September 30,
27 2007 time period.

28 **FIFTH CAUSE TO REVOKE PROBATION**

(Work as a registered Nurse)

18. At all times after the effective date of Respondent's probation, Condition

Six stated:

Function as a Registered Nurse. Respondent, during the period of probation,
shall engage in the practice of registered nursing in California for a minimum of
twenty-four (24) hours per week for six (6) consecutive months or as determined
by the Board.

1 For purposes of compliance with the section, "engage in the practice of
2 registered nursing" may include, when approved by the Board, volunteer work as
3 a registered nurse, or work in any non-direct patient care position that requires
4 licensure as a registered nurse.

5 Respondent shall commence engagement in the practice of registered
6 nursing for a minimum of twenty-four (24) hours per week by no later than one
7 (1) year from the effective date of this decision, unless an alternative start date is
8 established by the Board or its representative.

9 Any failure to commence engagement in the practice of registered nursing
10 for a minimum of twenty-four (24) hours per week within one (1) year of the
11 effective date of this decision, or by such alternative date as may be set by the
12 Board or its representative, or any failure to continue such minimum engagement
13 for six (6) consecutive months or such alternative period as may be set by the
14 Board or its representative, may result in an automatic revocation of the License
15 without notice, process, or opportunity to be heard.

16 19. Respondent's probation is subject to revocation because she failed to
17 comply with Probation Condition Six, referenced above. Respondent failed to function as a
18 registered nurse by January 5, 2008, one year from the effective date of the decision. As of July
19 7, 2008, Respondent has failed to function as a registered nurse. Respondent will not be able
20 work as a registered nurse for the required minimum of twenty-four (24) hours per week for six
21 (6) consecutive months, prior to the end of her probation on January 4, 2009.

22 SIXTH CAUSE TO REVOKE PROBATION

23 (Complete a Nursing course)

24 20. At all times after the effective date of Respondent's probation, Condition
25 Ten stated:

26 **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll
27 in and successfully complete one or more courses relevant to the practice of
28 registered nursing no later than six (6) months following the effective date of this
decision. The number and content of courses shall be determined by the Board or
its representative, but shall include at a minimum a refresher course designed for
registered nurses approved by the Board.

Respondent shall obtain prior approval from the Board before enrolling in
any course(s). Respondent shall submit to the Board the original transcripts or
certificates of completion for the above required course(s). The Board shall return
the original documents to Respondent after photocopying them for its records.

Any failure to enroll in or successfully complete the required courses, or to
do so within six (6) months of the effective date of this decision, or any failure to
submit to the Board the transcripts or certificates of completion therefor, may
result in an automatic revocation of the License without notice, process, or
opportunity to be heard.

21. Respondent's probation is subject to revocation because she failed to comply with Probation Condition Ten, referenced above. Respondent failed to enroll and complete an approved nursing course by July 5, 2007, six months from the effective date of the decision. Respondent was given an extension, until September 27, 2007, to complete this requirement. Respondent failed to complete an approved nursing course by the new September 28, 2007 deadline. Respondent did take a nursing course but the course did not contain the required clinical component. Respondent was given a further extension to complete the clinical component. Respondent was informed that the Board was willing to accept a "new grad program" as the clinical component of the nursing course. "New grad programs" are on the job training courses offered by some employers. Respondent was given until January 5, 2008 to find a job with a new grad program, the same date respondent was required to function as a registered nurse. Respondent failed to find a job with a "new grad program." Respondent failed to take any other courses that would comply with the clinical requirements. As of July 7, 2008, Respondent has failed to complete an approved nursing course.

22. Respondent has also failed to provide proof of completion of the assigned stress management course.

SEVENTH CAUSE TO REVOKE PROBATION

(Physical Health Examination)

23. At all times after the effective date of Respondent's probation, Condition Thirteen stated:

Physical Examination. Respondent shall, within forty-five (45) days of the effective date of this decision, undergo and complete a physical examination as appropriate to determine her capability to perform the duties of a registered nurse. The examination is to be performed by a licensed physician, nurse practitioner, or physician's assistant approved by the Board. It is Respondent's responsibility to ensure that the examiner submits a written report of that assessment and recommendations to the Board, in a format acceptable to the Board, no later than ninety (90) days following completion of the examination. All costs for the examination, submission of the report, or otherwise, are the responsibility of Respondent. Recommendations for treatment by the examiner are to be instituted and followed by Respondent, with the treating physician, nurse practitioner, or physician's assistant providing periodic written reports to the Board on forms provided by the Board or its representative.

If Respondent is determined to be unable to practice safely as a registered

1 nurse, the licensed physician, nurse practitioner, or physician's assistant making
2 this determination shall immediately notify the Board and Respondent by
3 telephone, Respondent shall ensure the Board is notified of any such
4 determination, and the Board shall request that the Attorney General's office
5 prepare an accusation, petition to revoke probation, or other pleading.
6 Respondent shall immediately cease practice and may not resume practice until
7 notified by the Board. During this period of suspension, Respondent shall not
8 engage in any practice for which a license issued by the Board is required, until
9 the Board has notified Respondent that another physical examination subsequently
10 performed at Respondent's expense permits Respondent to resume practice. This
11 period of suspension will not apply to the reduction of this probationary time
12 period.

13 Any failure to undergo this assessment within forty-five (45) days or to
14 submit or cause to be submitted a report of this assessment within a further ninety
15 (90) days, or any failure to comply with recommendations for treatment, or any
16 failure to notify the Board or ensure that the Board is notified of any
17 determination that Respondent is unable to practice safely as a nurse, or any
18 failure to cease practice in the event of such determination, or any resumption of
19 practice following such determination absent notification that resumption is
20 permitted, may result in an automatic revocation of the License without notice,
21 process, or opportunity to be heard.

22 24. Respondent's probation is subject to revocation because she failed to
23 comply with Probation Condition Thirteen, referenced above. Respondent failed to have to her
24 examining physician submit an acceptable written report to the Board in a timely manner. On
25 May 9, 2007, Respondent was sent a "Warning Letter" indicating that the board had not received
26 the necessary form from Respondent's physician. Respondent was given until May 23, 2007 to
27 obtain the required form from her physician. Respondent failed to have her physician complete
28 the necessary form by May 23, 2007. As of July 7, 2008, Respondent has failed to provide the
necessary form to the Board.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein
23 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


24 1. Revoking the probation that was granted by the Board of Registered
25 Nursing in Case No. 2003-239 and imposing the disciplinary order that was stayed thereby
26 revoking Registered Nurse License No. 516849 issued to Julie C. Apollo;

27 2. Revoking or suspending Registered Nurse License No. 516849, issued to
28 Julie C. Apollo;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 9/10/08


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SF2008200299
20127967.wpd

Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2003-239

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke
Probation Against:

JULIE C. APOLLO, RN
25200 Carlos Bee Blvd., Apt. 388
Hayward, CA 94542

Registered Nurse License No. 516849

Respondent

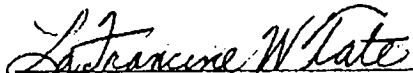
Case No. 2003-239

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on January 5, 2007.

IT IS SO ORDERED December 6, 2006.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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of the State of California
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Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke Probation
Against:

JULIE C. APOLLO
25200 Carlos Bee Blvd., Apt. 390
Hayward, CA 94542

Registered Nurse License No. 516849

Respondent.

Case No. 2003-239

OAH No.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Board of Registered Nursing of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Petition to Revoke Probation.

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the Board of Registered Nursing. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

2. Respondent Julie C. Apollo (Respondent) is represented herein by attorney Adam G. Slote, whose address is 100 Pine Street, Suite 750, San Francisco, CA 94111-5207.

3. On or about October 13, 1995, the Board of Registered Nursing issued Registered Nurse License No. 516849 to Respondent. The License will expire August 31, 2007, unless renewed. The License has been inactive since 1999.

JURISDICTION

4. Petition to Revoke Probation No. 2003-239 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on May 1, 2006. Respondent timely filed her Notice of Defense contesting the Petition to Revoke Probation. A true copy of Petition to Revoke Probation No. 2003-239 is attached hereto as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, discussed with counsel, and understands the charges and allegations in Petition to Revoke Probation No. 2003-239. Respondent has also carefully read, discussed with counsel, and understands the effects of this stipulation.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Petition to Revoke Probation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

8. Respondent further voluntarily, knowingly, and intelligently waives and gives up any right to notice, process, or opportunity to be heard prior to entry of a subsequent Decision and Order automatically revoking her license for non-compliance with probation, as is provided for in the Disciplinary Order below. Respondent understands and agrees that the Board shall have absolute discretion to order said automatic revocation upon such non-compliance.

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CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Petition to Revoke Probation No. 2003-239.

10. Respondent agrees that her License is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CIRCUMSTANCES IN MITIGATION

11. Respondent asserts that her failure to thus far comply with the terms and conditions of her probation is at least partially explained by medical conditions that interfere with her compliance. Respondent expects those medical conditions to resolve or improve sufficiently and in sufficient time to enable her to comply with the terms and conditions of the probation to be imposed hereby within the time limits set hereby. In any event, Respondent understands and agrees that any failure to timely comply with the terms and conditions of the probation imposed hereby may result in revocation of her license, regardless of her capacity to comply.

RESERVATION

12. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

13. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

///

1 14. The parties understand and agree that facsimile copies of this Stipulated
2 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
3 force and effect as the originals.

4 15. In consideration of the foregoing admissions and stipulations, the parties
5 agree that the Board may, without further notice or formal proceeding, issue and enter the
6 following Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 The Board's prior Decision and Order in this case, effective December 6, 2003,
9 revoked Registered Nurse License No. 516849 issued to Julie C. Apollo (Respondent), but stayed
10 the revocation and placed Respondent on probation for three (3) years with terms and conditions.
11 If Respondent had been compliant therewith, that probation would have terminated on or about
12 December 6, 2006. That term of probation is now to be extended for two (2) years from the new
13 effective date of this Decision and Order. The original termination date is now to be replaced by
14 a date two (2) years from the effective date of this Decision and Order. The original terms and
15 conditions of probation are to be replaced by the terms and conditions stated in the following.

16 IT IS HEREBY ORDERED that Registered Nurse License No. 516849, issued to
17 Julie C. Apollo (Respondent), is revoked. However, the revocation is stayed and Respondent is
18 placed on probation for two (2) years on the following terms and conditions.

19 **Severability Clause.** Each condition of probation contained herein is a separate
20 and distinct condition. If any condition of this Order, or any application thereof, is declared
21 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
22 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
23 and enforceable to the fullest extent permitted by law.

24 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
25 A full and detailed account of any and all violations of law shall be reported by Respondent to
26 the Board in writing within seventy-two (72) hours of occurrence. Respondent shall submit
27 completed fingerprint forms and fingerprint fees within forty-five (45) days of the effective date
28 of this decision, unless previously submitted as part of the license application process.

1 **Criminal Court Orders:** If Respondent is under criminal court orders, including
2 probation or parole, and the order is violated, this shall be deemed a violation of this probation.

3 Any failure to obey any federal, state, or local law, any failure to report in writing
4 to the Board within seventy-two (72) hours of any such violation of law, any failure to submit
5 completed fingerprint forms and fingerprint fees within forty-five (45) days if required, or any
6 failure to comply with any criminal court orders, including probation or parole, may result in an
7 automatic revocation of the License without notice, process, or opportunity to be heard.

8 2. **Comply with the Board's Probation Program.** Respondent shall fully
9 comply with the conditions of the Probation Program established by the Board and cooperate
10 with representatives of the Board in its monitoring and investigation of the Respondent's
11 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
12 within no more than fifteen (15) days of any address change and shall at all times maintain an
13 active, current license status with the Board, including during any period of suspension.

14 Any failure to comply with the conditions of the Probation Program, any failure to
15 cooperate with representatives of the Board in monitoring that compliance, any failure to inform
16 the Board in writing within fifteen (15) days of any address change, or any failure to maintain an
17 active, current License with the Board, including during any period of suspension, may result in
18 an automatic revocation of the License without notice, process, or opportunity to be heard.

19 3. **Report in Person.** Respondent, during the period of probation, shall
20 appear in person at interviews/meetings as directed by the Board or its representatives.

21 Any failure to appear as directed at any interview/meeting may result in an
22 automatic revocation of the License without notice, process, or opportunity to be heard.

23 4. **Residency, Practice, or Licensure Outside of State.** Periods of
24 residency or practice as a registered nurse outside of California shall not apply toward a reduction
25 of this probation time period. Respondent's probation is tolled if and when she resides outside of
26 California. Respondent must provide written notice to the Board within fifteen (15) days of any
27 change of residency or any period of practice outside the state, and within thirty (30) days prior to
28 re-establishing residency or returning to practice in this state.

Respondent shall provide the Board with a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

Any failure to provide timely written notice to the Board within fifteen (15) days of any change of residency or practice outside the state, and within thirty (30) days prior to re-establishing residency or returning to practice in this state, or any failure to provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse, or any failure to timely provide information regarding the status of each license and any changes in such license status during the period of probation, or any failure to inform the Board if she applies for or obtains a new nursing license during the term of probation, may result in an automatic revocation of the License without notice, process, or opportunity to be heard.

5. Submit Written Reports. Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

Any failure by Respondent to timely submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury as may be required by the Board, or any failure to immediately execute a release of information form required by the Board or its representatives, or any failure to provide a copy of this Decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license, may result in an automatic revocation of the License without notice, process, or opportunity to be heard.

///

1 6. **Function as a Registered Nurse.** Respondent, during the period of
2 probation, shall engage in the practice of registered nursing in California for a minimum of
3 twenty-four (24) hours per week for six (6) consecutive months or as determined by the Board.

4 For purposes of compliance with the section, "engage in the practice of registered
5 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
6 work in any non-direct patient care position that requires licensure as a registered nurse.

7 Respondent shall commence engagement in the practice of registered nursing for a
8 minimum of twenty-four (24) hours per week by no later than one (1) year from the effective date
9 of this decision, unless an alternative start date is established by the Board or its representative.

10 Any failure to commence engagement in the practice of registered nursing for a
11 minimum of twenty-four (24) hours per week within one (1) year of the effective date of this
12 decision, or by such alternative date as may be set by the Board or its representative, or any
13 failure to continue such minimum engagement for six (6) consecutive months or such alternative
14 period as may be set by the Board or its representative, may result in an automatic revocation of
15 the License without notice, process, or opportunity to be heard.

16 7. **Employment Approval and Reporting Requirements.** Respondent is to
17 obtain prior approval from the Board before commencing or continuing any employment, paid or
18 voluntary, as a registered nurse. Respondent shall submit or cause to be submitted to the Board
19 all performance evaluations and other employment related reports pertaining to any employment,
20 paid or voluntary, as a registered nurse, upon request of the Board.

21 Respondent shall provide a copy of this Decision to her employer and immediate
22 supervisors prior to commencement of any nursing or other health care related employment.

23 In addition, Respondent shall notify the Board in writing within seventy-two (72)
24 hours of obtaining any nursing or other health care related employment. Respondent shall notify
25 the Board in writing within seventy-two (72) hours after she is terminated or separated,
26 regardless of cause, from any nursing or other health care related employment with a full
27 explanation of the circumstances surrounding the termination or separation.

28 ///

1 Any failure to obtain approval from the Board before commencing or continuing
2 any employment, paid or voluntary, as a registered nurse, or any failure to submit or cause to be
3 submitted to the Board, upon request, performance evaluations and other employment related
4 reports pertaining to any employment, paid or voluntary, as a registered nurse, or any failure to
5 provide a copy of this Decision and Order to her employer and immediate supervisors prior to
6 commencement of any nursing or other health care related employment, or any failure to notify
7 the Board in writing within seventy-two (72) hours of obtaining nursing or other health care
8 related employment or within seventy-two (72) hours of termination or separation, regardless of
9 cause, from any nursing or other health care related employment with a full explanation of the
10 circumstances surrounding the termination or separation, may result in an automatic revocation
11 of the License without notice, process, or opportunity to be heard.

12 8. **Supervision.** Respondent shall obtain approval from the Board regarding
13 Respondent's level of supervision and/or collaboration before commencing or continuing any
14 employment as a registered nurse, or education and training that includes patient care.

15 Respondent shall practice only under the direct supervision of a registered nurse
16 in good standing (no current discipline) with the Board, unless alternative methods of supervision
17 and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

18 Respondent's approved level of supervision and/or collaboration may include, but
19 is not limited to the following:

20 (a) Maximum - The individual providing supervision and/or collaboration is
21 present in the patient care area or in any other work setting at all times.

22 (b) Moderate - The individual providing supervision and/or collaboration is in
23 the patient care unit or in any other work setting at least half the hours Respondent works.

24 (c) Minimum - The individual providing supervision and/or collaboration has
25 person-to-person communication with Respondent at least twice during each shift worked.

26 (d) Home Health Care - If Respondent is approved to work in the home health
27 care setting, the individual providing supervision and/or collaboration shall have person-to-
28 person communication with Respondent as required by the Board each work day. Respondent

1 shall maintain telephone or other telecommunication contact with the individual providing
2 supervision and/or collaboration as required by the Board during each work day. The individual
3 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
4 site visits to patients' homes visited by Respondent with or without Respondent present.

5 Any failure to obtain approval from the Board regarding Respondent's level of
6 supervision and/or collaboration before commencing or continuing any employment as a
7 registered nurse, or education and training that includes patient care, or any practice other than
8 under the direct supervision of a registered nurse in good standing (no current discipline) with the
9 Board, absent approval of alternative methods of supervision and/or collaboration (e.g., with an
10 advanced practice nurse or physician), or any failure to abide by and ensure compliance with the
11 approved level of supervision, may result in an automatic revocation of the License without
12 notice, process, or opportunity to be heard.

13 9. **Employment Limitations.** Respondent shall not work for a nurse's
14 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
15 traveling nurse, or for an in-house nursing pool.

16 Respondent shall not work for a licensed home health agency as a visiting nurse
17 unless the registered nursing supervision and other protections for home visits have been
18 approved by the Board or its representative. Respondent shall not work in any other registered
19 nursing occupation where home visits are required.

20 Respondent shall not work in any health care setting as a supervisor of registered
21 nurses. The Board or its representative may additionally restrict Respondent from supervising
22 licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

23 Respondent shall not work as a faculty member in an approved school of nursing
24 or as an instructor in a Board approved continuing education program.

25 Respondent shall work only on a regularly assigned, identified and predetermined
26 worksite(s) and shall not work in a float capacity. If Respondent is working or intends to work in
27 excess of forty (40) hours per week, the Board may request documentation to determine whether
28 there should be restrictions on the hours of work.

Any employment by Respondent in a prohibited field or setting, or in any setting or on any schedule other than that approved by the Board or its representative, or any failure to cooperate with the Board or its representative in determining or confirming the circumstances or hours of Respondent's employment, may result in an automatic revocation of the License without notice, process, or opportunity to be heard.

10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll in and successfully complete one or more courses relevant to the practice of registered nursing no later than six (6) months following the effective date of this decision. The number and content of courses shall be determined by the Board or its representative, but shall include at a minimum a refresher course designed for registered nurses approved by the Board.

Respondent shall obtain prior approval from the Board before enrolling in any course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

Any failure to enroll in or successfully complete the required courses, or to do so within six (6) months of the effective date of this decision, or any failure to submit to the Board the transcripts or certificates of completion therefor, may result in an automatic revocation of the License without notice, process, or opportunity to be heard.

11. **Mental Health Examination.** Respondent shall, within forty-five (45) days of the effective date of this decision, undergo and complete a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination is to be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. It is Respondent's responsibility to ensure that the examining mental health practitioner submits a written report of that assessment and recommendations to the Board no later than ninety (90) days following completion of the examination. All costs for the examination, submission of the report, or otherwise, are the responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination are to be instituted and followed by Respondent.

1 If Respondent is determined to be unable to practice safely as a registered nurse,
2 the licensed mental health care practitioner making this determination shall immediately notify
3 the Board and Respondent by telephone, Respondent shall ensure that the Board is notified of
4 any such determination, and the Board shall request that the Attorney General's office prepare an
5 accusation, petition to revoke probation, or other pleading. Respondent shall immediately cease
6 practice and may not resume practice until notified by the Board. During this period of
7 suspension, Respondent shall not engage in any practice for which a license issued by the Board
8 is required, until the Board has notified Respondent that another mental health examination
9 subsequently performed at Respondent's expense permits Respondent to resume practice. This
10 period of suspension will not apply to the reduction of this probationary time period.

11 Any failure to undergo this assessment within forty-five (45) days or to submit or
12 cause to be submitted a report of this assessment within a further ninety (90) days, or any failure
13 to comply with recommendations for treatment, therapy or counseling made as a result of the
14 mental health examination, or any failure to notify the Board or ensure that the Board is notified
15 of any determination that Respondent is unable to practice safely as a nurse, or any failure to
16 cease practice in the event of such determination, or any resumption of practice following such
17 determination absent notification that such resumption is permitted, may result in an automatic
18 revocation of the License without notice, process, or opportunity to be heard.

19 **12. Therapy or Counseling Program.** If recommended by the examining
20 mental health practitioner, Respondent, at her expense, shall participate in an on-going therapy,
21 counseling, and/or anger management program until such time as the Board releases her from
22 this requirement and only upon the recommendation of the counselor. Written progress reports
23 from the counselor will be required by the Board or its representative at various intervals. It shall
24 be Respondent's responsibility to ensure timely submission of these reports. Any failure to enter
25 into or continue a recommended therapy, counseling, and/or anger management program, or any
26 failure to continue in such program until released by the Board upon counselor recommendation,
27 or any failure to ensure timely submission of written reports from the counselor, may result in an
28 automatic revocation of the License without notice, process, or opportunity to be heard.

1 13. **Physical Examination.** Respondent shall, within forty-five (45) days of
2 the effective date of this decision, undergo and complete a physical examination as appropriate to
3 determine her capability to perform the duties of a registered nurse. The examination is to be
4 performed by a licensed physician, nurse practitioner, or physician's assistant approved by the
5 Board. It is Respondent's responsibility to ensure that the examiner submits a written report of
6 that assessment and recommendations to the Board, in a format acceptable to the Board, no later
7 than ninety (90) days following completion of the examination. All costs for the examination,
8 submission of the report, or otherwise, are the responsibility of Respondent. Recommendations
9 for treatment by the examiner are to be instituted and followed by Respondent, with the treating
10 physician, nurse practitioner, or physician's assistant providing periodic written reports to the
11 Board on forms provided by the Board or its representative.

12 If Respondent is determined to be unable to practice safely as a registered nurse,
13 the licensed physician, nurse practitioner, or physician's assistant making this determination shall
14 immediately notify the Board and Respondent by telephone, Respondent shall ensure the Board
15 is notified of any such determination, and the Board shall request that the Attorney General's
16 office prepare an accusation, petition to revoke probation, or other pleading. Respondent shall
17 immediately cease practice and may not resume practice until notified by the Board. During this
18 period of suspension, Respondent shall not engage in any practice for which a license issued by
19 the Board is required, until the Board has notified Respondent that another physical examination
20 subsequently performed at Respondent's expense permits Respondent to resume practice. This
21 period of suspension will not apply to the reduction of this probationary time period.

22 Any failure to undergo this assessment within forty-five (45) days or to submit or
23 cause to be submitted a report of this assessment within a further ninety (90) days, or any failure
24 to comply with recommendations for treatment, or any failure to notify the Board or ensure that
25 the Board is notified of any determination that Respondent is unable to practice safely as a nurse,
26 or any failure to cease practice in the event of such determination, or any resumption of practice
27 following such determination absent notification that resumption is permitted, may result in an
28 automatic revocation of the License without notice, process, or opportunity to be heard.

1 14. **Cost Recovery.** Respondent shall pay to the Board costs associated with
2 its investigation and enforcement of the original Accusation pursuant to Business and Professions
3 Code section 125.3 in the amount of \$2,063.00. Respondent shall be permitted to pay these costs
4 in a payment plan approved by the Board or its representative, with payments to be completed no
5 later than three (3) months prior to the end of the probation term.

6 Unless payment thereof is excused by the Board or its representative upon written
7 proof of hardship submitted by Respondent, any failure to complete payment of costs due to the
8 Board by no later than three (3) months prior to the end of the probation term may result in an
9 automatic revocation of the License without notice, process, or opportunity to be heard.

10 15. **Violation of Probation.** If Respondent violates any of the above-listed
11 terms or conditions of her probation as specified, the Board may set aside the stay order, impose
12 the stayed order of revocation, and thereby revoke Respondent's License without further notice,
13 process, or opportunity to be heard. Sole discretion to determine whether a term or condition has
14 been violated, the materiality of that violation, and whether the License is to be revoked without
15 further notice, process, or opportunity to be heard, shall reside in the Board or its representative.

16 The sole discretion of the Board or its representative to revoke the license without
17 further notice, process, or opportunity to be heard is limited in only one circumstance. Terms or
18 conditions 1 through 5 and 7 listed above impose reporting or appearance deadlines (e.g., notify
19 the Board within a set time period from a trigger event), or permit the Board or its representative
20 to require a report or a personal appearance by a date or time certain. On the first occasion of any
21 failure by Respondent to meet a reporting or appearance deadline triggered/imposed under Terms
22 1-5 and 7, the Board or its representative shall notify Respondent of this failure by Certified and
23 First Class US Mail at her address of record required to be maintained with the Board. If within
24 ten (10) days of mailing of this notification, Respondent supplies the Board with documentation
25 adequately demonstrating that on the deadline date or time Respondent was physically unable to
26 report or appear, Respondent shall be given a one-time-only extension of the deadline of ten (10)
27 additional days. If Respondent fails to supply adequate proof of incapacity within ten (10) days
28 of the notice mailing, or to comply with the new deadline, automatic revocation may be imposed.

1 Only the first such failure to comply with such a reporting or appearance deadline
2 shall require a notification mailing or be eligible for a ten (10) day extension of this type. It shall
3 be Respondent's responsibility to maintain at all times a current and valid address of record with
4 the Board. A notice by Certified and First Class US Mail to this address of record is all that shall
5 ever be required to trigger the ten (10) day deadline for submission of proof of incapacity. There
6 is no requirement of actual receipt thereof by Respondent or actual notice thereof.

7 Under no circumstances shall the Board or its representative be required to extend
8 any deadline to report or appear beyond ten (10) days, or to permit more than one such extension.

9 Under no circumstances shall the Board or its representative be required to extend any deadline
10 other than the first reporting or appearance deadline arising or imposed under Terms 1-5 and 7
11 with which Respondent fails to comply. This exception specifically does not apply to any of the
12 deadlines given in Terms 6 and 8-14, or to the deadline for submission of fingerprints in Term 1.

13 In the alternative, the Board or its representative may choose, but is not required,
14 to give Respondent notice and an opportunity to be heard before setting aside the stay order and
15 imposing the stayed order of revocation of Respondent's License. Nothing in the foregoing shall
16 impair or restrict the discretion of the Board or its representative to opt for this course.

17 In no event shall proof of incapacity or disability excuse non-compliance with any
18 deadline or requirement imposed by the foregoing terms or conditions.

19 If during the period of probation an accusation, petition to revoke probation, or
20 other pleading has been filed against Respondent's license or the Attorney General's Office has
21 been requested to prepare an accusation, petition to revoke probation, or other pleading against
22 Respondent's license, the probationary period shall automatically be extended and shall not
23 expire until the accusation, petition, or other pleading has been acted upon by the Board.

24 **16. Petition for Reduction.** For the purposes of Business and Professions
25 Code section 2760.1, regarding Respondent's ability to petition for reduction or termination of
26 probation, the probation imposed hereby shall be considered to be three (3) years or more (total
27 of original length and extension), so that no petition for reduction or termination of probation
28 may be filed for at least two (2) years from the effective date of this decision.

1 17. **License Surrender.** During Respondent's term of probation, if she ceases
2 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
3 probation, Respondent may surrender her license to the Board. The Board reserves the right to
4 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
5 take any other action deemed appropriate and reasonable under the circumstances, without
6 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
7 will no longer be subject to the conditions of probation.

8 Surrender of Respondent's license shall be considered a disciplinary action and
9 shall become a part of Respondent's license history with the Board. A registered nurse whose
10 license has been surrendered may petition the Board for reinstatement no sooner than the
11 following minimum periods from the effective date of the disciplinary decision:


12 (1) Two years for reinstatement of a license that was surrendered for any
13 reason other than a mental or physical illness; or

14 (2) One year for a license surrendered for a mental or physical illness.

15
16
17 ACCEPTANCE

18 I have carefully read the above Stipulated Settlement and Disciplinary Order and
19 have fully discussed it with my attorney, Adam G. Slote. I understand the stipulation and the
20 effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and
21 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
22 Decision and Order of the Board of Registered Nursing.

23 DATED: 9/25/06

24
25 
26 JULIE C. APOLLO
27 Respondent
28

1 I have read and fully discussed with Respondent Julie C. Apollo the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary
3 Order. ~~I approve its form and content.~~

4 DATED: 10/4/06.

5
6 ADAM G. SLOTE
Attorney for Respondent

7
8
9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
12 Affairs.

13 DATED: 10/10/06.

14 BILL LOCKYER, Attorney General
15 of the State of California

16
17 JOSHUA A. ROOM
Deputy Attorney General

18 Attorneys for Complainant
19

20 DOJ Matter ID: SF2006400981
21 40109693.wpd
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Exhibit A

Petition to Revoke Probation No. 2003-239

BILL LOCKYER, Attorney General
of the State of California
JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-1299
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition to Revoke Probation
Against:

Case No. 2003-239

JULIE C. APOLLO
25200 Carlos Bee Blvd., Apt. 388
Hayward, CA 94542

**PETITION TO REVOKE
PROBATION**

Registered Nurse License No. 516849

Respondent.

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.

2. On or about October 13, 1995, the Board of Registered Nursing issued Registered Nurse License No. 516849 to Julie C. Apollo (Respondent). The Registered Nurse License has been inactive since 1999. It will expire on August 31, 2007, unless renewed.

3. In the disciplinary action "In the Matter of the Accusation Against Julie C. Apollo," Case No. 2003-239, the Board issued a decision, effective December 6, 2003, in which Respondent's Registered Nurse License was revoked. However, the revocation was stayed and Respondent's License was placed on probation for a period of three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

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1 11. On or about April 25, 2005, Respondent's probation monitor sent her a
2 Notice of Violation by certified mail, informing her she was in violation of terms and conditions
3 of her probation including: Condition # 2 (for failing to cooperate); Condition # 3 (for failing to
4 appear at a scheduled interview); Condition # 5 (for failing to submit documents re: a required
5 Mental Health Examination, an On-Going Treatment form, and/or a letter from her physician re:
6 inability to drive, work, or take courses); Condition # 11 (for failing to timely complete a Mental
7 Health Examination and failing to have an exam report submitted to the Board by July 1, 2004);
8 Condition # 12 (for failing to submit a required On-Going Treatment form by July 1, 2004); and
9 Condition # 13 (for failing to submit a cost recovery payment plan). Mailed with the Notice was
10 a form for submitting a Mental Health Examination report and an On-Going Treatment form, and
11 the Notice informed Respondent that she needed to meet those requirements/submit those reports
12 by June 10, 2005. Also included was a Cost Recovery Payment Plan form calling for payments
13 to begin on June 1, 2005, with an instruction that Respondent sign and return this form by May 9,
14 2005. Respondent failed to undergo examination or submit any required form by the deadline(s).

15 12. On or about June 13, 2005, Respondent's probation monitor mailed her a
16 Self-Report Survey to be completed by June 30, 2005 as an alternative to an in-person interview.
17 Respondent failed to complete or return the Self-Report Survey to her probation monitor.

18 13. On or about June 23, 2005, in a telephone conversation with her probation
19 monitor, Respondent re-asserted that she was not licensed in any other state.

20 14. On or about June 28, 2005, Respondent's probation monitor sent a letter
21 reminding Respondent of terms/conditions of probation including: Condition # 2's requirement
22 that she maintain an active license - the letter noted that Respondent's license had been inactive
23 since 1999, and gave her until August 31, 2005 to reactivate; Condition # 6's requirement that she
24 work as a registered nurse - the letter noted her failure to work was explained by disability only
25 through March 2005; Condition # 10's requirement that Respondent complete a nursing course;
26 Condition # 11's requirement that Respondent submit a Mental Health Examination report - the
27 letter gave Respondent until August 15, 2005 to do so; Condition # 12's requirement of possible
28 On-Going Treatment; and Condition # 13's requirement of an approved costs repayment plan.

1 15. As of March 25, 2006, Respondent had not returned her license to active
2 status, had not submitted any proof of employment as a registered nurse, had not submitted any
3 proof of courses enrolled in or completed, had not submitted a report of a completed Mental
4 Health Examination, had not submitted proof of or a plan for any On-Going Treatment, and had
5 not submitted a payment plan for cost recovery, or made any cost recovery payments. On March
6 25, 2006, Respondent's probation monitor informed her by letter that based on these and other
7 probation violations, her case had been referred to the Attorney General's Office for prosecution.

8 16. Condition # 14 of the December 6, 2003 Decision and Order specifies that
9 referral to the Attorney General's Office for prosecution shall automatically extend the probation
10 period until such time as the subsequent pleading is acted upon by the Board.

11 FIRST CAUSE TO REVOKE PROBATION

12 (Failure to Comply with Probation Program, Failure to Maintain Active License)

13 17. At all times after its December 6, 2003 effective date, Condition # 2 of the
14 Decision and Order imposing a stayed revocation and three (3) years probation required:

15 **2. Comply With the Board's Probation Program -**

16 Respondent shall fully comply with the conditions of the Probation
17 Program established by the Board and cooperate with
18 representatives of the Board in its monitoring and investigation of
19 respondent's compliance with the Board's probation program.
20 Respondent shall inform the Board in writing within no more than
21 15 days of any address change and shall at all times maintain an
22 active, current license status with the Board, including during any
23 period of suspension.

24 Upon successful completion of probation, respondent's
25 license shall be fully restored.

26 18. Respondent's probation is subject to revocation and the stayed revocation
27 order should be imposed for non-compliance with Probation Condition # 2, including failure to
28 cooperate with the Board in monitoring her probation as described in paragraphs 7-15, above,
and failure to maintain an active, current license with the Board (inactive since 1999).

25 SECOND CAUSE TO REVOKE PROBATION

26 (Failure to Report to Board as Directed)

27 19. At all times after its December 6, 2003 effective date, Condition # 3 of the
28 Decision and Order imposing a stayed revocation and three (3) years probation required:

1 **3. Report in Person** - Respondent, during the period of
2 probation, shall appear in person at interviews/meetings as directed
3 by the Board or its designated representatives.

4 20. Respondent's probation is subject to revocation and the stayed revocation
5 order should be imposed for non-compliance with Probation Condition # 3 and its requirement of
6 reporting for interviews/meetings as directed, including failure to report for scheduled meetings
7 on 12/03/03, 03/23/04, and 12/15/04, and failure to return a Self-Report Survey by 06/30/05 in
8 lieu of an in-person meeting, as described in paragraphs 7, 8, 10, and 12, above.

9 **THIRD CAUSE TO REVOKE PROBATION**

10 (Failure to Disclose Out-of-State License)

11 21. At all times after its December 6, 2003 effective date, Condition # 4 of the
12 Decision and Order imposing a stayed revocation and three (3) years probation required:

13 **4. Residency, Practice, or Licensure Outside of State** -
14 Periods of residency or practice as a registered nurse outside of
15 California shall not apply toward a reduction of this probation time
16 period. Respondent's probation is tolled if and when she resides
17 outside of California. Respondent must provide written notice to
18 the Board within 15 days of any change in residency or practice
19 outside the state, and within 30 days prior to re-establishing
20 residency or returning to practice in this state.

21 Respondent shall provide a list of all states and territories
22 where she has ever been licensed as a registered nurse, vocational
23 nurse, or practical nurse. Respondent shall further provide
24 information regarding the status of each license and any changes in
25 such license status during the term of probation. Respondent shall
26 inform the Board if she applies for or obtains a new nursing license
27 during the term of probation.

28 22. Respondent's probation is subject to revocation and the stayed revocation
29 order should be imposed for non-compliance with Probation Condition # 4, including failure to
30 inform her probation monitor during her May 19, 2004 Probation Orientation Interview that she
31 was licensed in Illinois, and subsequently repeating this failure during a telephone interview on
32 June 23, 2005 with her probation monitor, as described in paragraphs 9 and 13, above.

33 **FOURTH CAUSE TO REVOKE PROBATION**

34 (Failure to Submit Written Reports)

35 23. At all times after its December 6, 2003 effective date, Condition # 5 of the
36 Decision and Order imposing a stayed revocation and three (3) years probation required:

1 **5. Submit Written Reports** - Respondent, during the period
2 of probation, shall submit or cause to be submitted such written
3 reports/declarations and verification of actions under penalty of
4 perjury, as required by the Board. These reports/declarations shall
5 contain statements relative to respondent's compliance with all the
6 conditions of the Board's Probation Program. Respondent shall
7 immediately execute all release of information forms as may be
8 required by the Board or its representatives

9 Respondent shall provide a copy of this decision to the
10 nursing regulatory agency in every state and territory in which she
11 has a registered nurse license.

12 24. Respondent's probation is subject to revocation and the stayed revocation
13 order should be imposed for non-compliance with Probation Condition # 5, including failure to
14 submit written reports to the Board including quarterly reports, Mental Health Examination or
15 On-Going Treatment forms, cost recovery payment plan forms, certifications of disability status,
16 or other documentation as described in paragraphs 10-12 and 14-15, above, and her failure for a
17 period of nearly two years to provide a copy of the Decision and Order to the State of Illinois.

18 **FIFTH CAUSE TO REVOKE PROBATION**

19 (Failure to Function as a Registered Nurse)

20 25. At all times after its December 6, 2003 effective date, Condition # 6 of the
21 Decision and Order imposing a stayed revocation and three (3) years probation required:

22 **6. Function as a Registered Nurse** - Respondent, during the
23 period of probation, shall engage in the practice of registered
24 nursing in California for a minimum of 24 hours per week for 6
25 consecutive months or as determined by the Board.

26 For purposes of compliance with this section, "engage in
27 the practice of registered nursing" may include, when approved by
28 the Board, volunteer work as a registered nurse, or work in any
non-direct patient care position that requires licensure as a
registered nurse.

The Board may require that advanced practice nurses
engage in advanced practice nursing for a minimum of 24 hours
per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during
the probationary term, and has presented sufficient documentation
of her good faith efforts to comply with this condition, and if no
other conditions have been violated, the Board, in its discretion,
may grant an extension of respondent's probation up to one year
without further hearing in order to comply with this condition.
During the one year extension, all original conditions of probation
shall apply.

///

26. Respondent's probation is subject to revocation and the stayed revocation order should be imposed for non-compliance with Probation Condition # 6, in that Respondent has submitted no proof to the Board of any engagement in the practice of nursing.

SIXTH CAUSE TO REVOKE PROBATION

(Failure to Complete Nursing Courses)

27. At all times after its December 6, 2003 effective date, Condition # 10 of the Decision and Order imposing a stayed revocation and three (3) years probation required:

10. **Complete a Nursing Course(s)** - Respondent, at her own expense, shall enroll and successfully complete a course relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course. Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course. The Board shall return the original documents to respondent after photocopying them for its records.

28. Respondent's probation is subject to revocation and the stayed revocation order should be imposed for non-compliance with Probation Condition # 10, including failure to submit proof of any completed course(s) or to seek Board approval of any proposed course(s).

SEVENTH CAUSE TO REVOKE PROBATION

(Failure to Complete/Submit Mental Health Examination)

29. At all times after its December 6, 2003 effective date, Condition # 11 of the Decision and Order imposing a stayed revocation and three (3) years probation required:

11. **Mental Health Examination** - Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by respondent.

30. Respondent's probation is subject to revocation and the stayed revocation order should be imposed for non-compliance with Probation Condition # 11, including failure to timely undergo or submit a report resulting from the required Mental Health Examination.

1 EIGHTH CAUSE TO REVOKE PROBATION

2 (Failure to Participate in On-Going Treatment)

3 31. At all times after its December 6, 2003 effective date, Condition # 12 of
4 the Decision and Order imposing a stayed revocation and three (3) years probation required:

5 12. **Therapy or Counseling Program** - If recommended by
6 the examining mental health practitioner, respondent, at her
7 expense, shall participate in an on-going counseling or anger
8 management program until such time as the Board releases her
from this requirement and only upon the recommendation of the
counselor. Written progress reports from the counselor will be
required at various intervals.

9 32. Respondent's probation is subject to revocation and the stayed revocation
10 order should be imposed for non-compliance with Probation Condition # 12, including failure to
11 submit any proof of any on-going counseling or treatment, as well as failure to timely undergo or
12 submit a report resulting from the required Mental Health Examination, such that her need for an
13 on-going counseling or anger management program could not be determined and evaluated.

14 NINTH CAUSE TO REVOKE PROBATION

15 (Failure to Pay Cost Recovery/Design Payment Plan)

16 33. At all times after its December 6, 2003 effective date, Condition # 13 of
17 the Decision and Order imposing a stayed revocation and three (3) years probation required:

18 13. **Cost Recovery** - Respondent shall pay to the Board costs
19 associated with its investigation and enforcement pursuant to
20 Business and Professions Code section 125.3 in the amount of
\$2,063.00. Respondent shall be permitted to pay these costs in a
21 payment plan approved by the Board, with payments to be
completed no later than three months prior to the end of the
probation term.

22 If respondent has not complied with this condition during
the probationary term, and respondent has presented sufficient
23 documentation of her good faith efforts to comply with this
condition, and if no other conditions have been violated, the Board,
24 in its discretion, may grant an extension of respondent's probation
period up to one year without further hearing in order to comply
25 with this condition. During the one year extension, all original
conditions of probation will apply.

26 34. Respondent's probation is subject to revocation and the stayed revocation
27 order should be imposed for non-compliance with Probation Condition # 14, including failure to
28 make any payment(s) toward cost recovery and failure to submit a cost recovery payment plan.

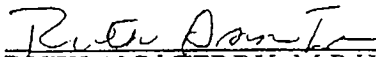
1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking the probation that was granted by the Board of Registered
5 Nursing in Case No. 2003-239 and imposing the disciplinary order that was stayed, thereby
6 revoking Registered Nurse License No. 516849, issued to Julie C. Apollo; and

7 2. Taking such other and further action as is deemed necessary and proper.

8 DATED: 4/25/06

9
10 
11 RUTH ANN TERRY, M.P.H., R.N.
12 Executive Officer
13 Board of Registered Nursing
14 Department of Consumer Affairs
15 State of California
16 Complainant

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16 40088474.wpd
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Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2003-239

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JULIE C. APOLLO
25200 Carlos Bee Blvd., Apt. 388
Hayward, CA 94541

Registered Nursing License No. 516849,
Respondent.

Case No. 2003-239

OAH No. N2003050692

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby
adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on December 6, 2003.

IT IS SO ORDERED November 6, 2003.

Sandra L. Erickson

President

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JULIE C. APOLLO
25200 Carlos Bee Blvd., Apt. 388
Hayward, CA 94541

Registered Nursing License No. 516849,

Respondent.

Case No. 2003-239

OAH No. N2003050692

PROPOSED DECISION

This matter was heard before Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, in Oakland, California on August 7, 2003.

Complainant Ruth Ann Terry, M.P.H., R.N., was represented by Joshua A. Room, Deputy Attorney General.

Respondent Julie C. Apollo, who was not present, was represented by Richard E. Hove, Attorney at Law, 24072 Myrtle Avenue, Hayward, California 94541.

The matter was submitted on August 7, 2003.

FACTUAL FINDINGS

1. On October 13, 1995, the Board of Registered Nursing (Board) issued registered nursing license number 516849 to Julie C. Apollo (respondent). Respondent's license, which is currently in inactive status, has been renewed through August 31, 2003.

2. On October 25, 2000, in the Municipal Court for the Hayward Hall of Justice Judicial District, County of Alameda, respondent was convicted, on her plea of no contest, of a violation of Penal Code section 415 (disturbing the peace). Imposition of sentence was suspended and respondent was placed on probation for three years upon conditions that included 30 days in jail through the weekend work project, all of which were stayed, and payment of a \$100 fine. Respondent's subsequent petition for relief under Penal Code section 1203.4 was granted on July 11, 2003. Respondent's conviction was set aside and the complaint was dismissed.

3. The incident that resulted in respondent's conviction occurred on July 21, 2000. On that date, Hayward police were called to the Patelco Credit Union on a report that respondent was creating a disturbance. The first officer who arrived at the credit union asked respondent what happened. Respondent began speaking loudly, saying the tellers were refusing to help her. The officer told respondent to calm down and asked her to leave the premises so she could speak to her outside. Respondent refused to leave and refused to give the officer her identification. When the officer advised respondent that she would be arrested if she did not go outside and provide her identification, respondent turned her back on the officer. After the officer grabbed respondent's left wrist in a twist lock, respondent hit the officer on the left cheek and eye with her right hand. The officer released respondent, who tried to hit the officer in the face again. The officer punched respondent in the chest, then grabbed her by the shoulders and pushed her to the ground. Respondent continued to resist and the officer held her down until another officer arrived and respondent could be handcuffed. The officer respondent hit in the face received three scratch marks and two small lacerations on her right arm and two small lacerations on her right ear lobe. She believes all those injuries were from respondent's fingernails. After she was taken to jail, respondent apologized to the officer she had struck, saying she was sorry how she had acted out.

4. Respondent was charged with misdemeanor violations of Penal Code sections 148(a) (resisting or obstructing a peace officer) and 243(b) (battery on a peace officer). She was allowed to plead to the lesser charge of disturbing the peace.

5. Respondent's conviction, based upon her assaultive and abusive conduct toward a police officer, is substantially related to the qualifications, functions or duties of a registered nurse pursuant to title 16, California Code of Regulations section 1444.

6. The Board has incurred legal costs of \$1,839 in the prosecution of this case, and will incur additional costs of \$224, for a total of \$2,063. These costs, representing 17 hours of deputy attorney general time and three hours of legal analyst time, are found to be reasonable.

LEGAL CONCLUSIONS

1. Business and Professions Code section 2761(f) provides that the Board may take disciplinary action against a licensee convicted of an offense that is substantially related to the qualifications, functions and duties of a registered nurse. Under title 16, California Code of Regulations section 1444(a), a crime involving "assaultive or abusive conduct" is deemed to be substantially related to those qualifications functions and duties. Cause for disciplinary action against respondent thereby exists as a result of the conviction set forth in Finding 2.

2. While it is true that respondent's conviction did not occur in a nursing situation, and that no evidence was introduced to show that respondent ever acted out in a similar fashion in her capacity as a registered nurse, the lack of control respondent exhibited

in the credit union office on July 21, 2000 does raise questions about respondent's temperament and judgment. Accordingly, it is determined that protection of the public interest demands that respondent's license should be placed on probation for a period of time so that the Board can assure itself that respondent is safe to practice nursing. Conditions of probation must include some evaluation of respondent's mental status and, if found to be warranted by her evaluator, anger management or other counseling.

ORDER

IT IS HEREBY ORDERED that Registered Nurse License Number 516849 issued to respondent Julie C. Apollo is revoked. However, the revocation is stayed and respondent is placed on probation for three years on the following conditions.

SEVERABILITY CLAUSE – Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

(1) **OBEY ALL LAWS** - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

(2) **COMPLY WITH THE BOARD'S PROBATION PROGRAM** - Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, respondent's license shall be fully restored.

(3) **REPORT IN PERSON** - Respondent, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.

4) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE -

Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled if and when she resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

(5) SUBMIT WRITTEN REPORTS - Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

(6) FUNCTION AS A REGISTERED NURSE - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

(7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS -

Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

(8) SUPERVISION - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.

(b) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by respondent with or without respondent present.

(9) EMPLOYMENT LIMITATIONS - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

(10) COMPLETE A NURSING COURSE(S) - Respondent, at her own expense, shall enroll and successfully complete a course relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course. Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course. The Board shall return the original documents to respondent after photocopying them for its records.

(11) MENTAL HEALTH EXAMINATION - Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by respondent.

If respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and respondent by telephone, and the Board shall request that

the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified respondent that a mental health determination permits respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to have the above assessment submitted to the Board within the 45-day requirement, respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

(12) THERAPY OR COUNSELING PROGRAM – If recommended by the examining mental health practitioner, respondent, at her expense, shall participate in an on-going counseling or anger management program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

(13) COST RECOVERY - Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$2,063.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

(14) VIOLATION OF PROBATION - If respondent violates the conditions of her probation, the Board after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of respondent's license.


If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

(15) LICENSE SURRENDER - During respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender her license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- 1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- 2) One year for a license surrendered for a mental or physical illness.

DATED: August 18, 2003


MICHAEL C. COHN
Administrative Law Judge
Office of Administrative Hearings

1 BILL LOCKYER, Attorney General
of the State of California
2 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
5 Facsimile: (415) 703-5480
6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2003-239

11 JULIE C. APOLLO
12 25200 Carlos Bee Blvd., Apt. 388
13 Hayward, CA 94542

A C C U S A T I O N

14 Registered Nursing License No. 516849

15 Respondent.

16 Complainant alleges:

17 PARTIES

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
20 Department of Consumer Affairs.

21 2. On or about October 13, 1995, the Board of Registered Nursing issued
22 Registered Nursing License Number 516849 to Julie C. Apollo (Respondent). The Registered
23 Nursing License is presently inactive and will expire on August 31, 2003, unless renewed.

24
25 JURISDICTION

26 3. This Accusation is brought before the Board of Registered Nursing
27 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

1 4. Section 2750 of the Code provides, in pertinent part, that the Board may
2 discipline any licensee, including a licensee holding a temporary or an inactive license, for any
3 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4 5. Section 2764 of the Code states:

5 "The lapsing or suspension of a license by operation of law or by order or decision
6 of the board or a court of law, or the voluntary surrender of a license by a licentiate shall not
7 deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary
8 proceeding against such license, or to render a decision suspending or revoking such license."

9 6. Section 118(b) of the Code provides that the suspension, expiration,
10 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with
11 a disciplinary action during the period within which the license may be renewed, restored,
12 reissued or reinstated.

13 7. Section 2811(b) of the Code provides, in pertinent part, that the Board may
14 renew an expired license at any time within eight years after its expiration.

15 8. Section 2761 of the Code states in pertinent part:

16 "The board may take disciplinary action against a certified or licensed nurse or
17 deny an application for a certificate or license for any of the following:

18 ...

19 "(f) Conviction of a felony or of any offense substantially related to the
20 qualifications, functions, and duties of a registered nurse, in which event the record of the
21 conviction shall be conclusive evidence thereof.

22 ...

23 9. California Code of Regulations, title 16, section 1444, states in part:

24 "A conviction or act shall be considered to be substantially related to the
25 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
26 present or potential unfitness of a registered nurse to practice in a manner consistent with the
27 public health, safety, or welfare. Such convictions or acts shall include but not be limited to the
28 following:

"(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

10. Section 11160, subdivision (d) of the Penal Code, states in pertinent part:

"For the purposes of this section, 'assaultive or abusive conduct' shall include any of the following offenses:

"(8) Battery, in violation of Section 242.

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Conviction of Crime)

12. Respondent is subject to disciplinary action under section 2761(f) of the Code in that on or about October 25, 2000, in a criminal proceeding titled *People v. Julie Camille Apollo* in Alameda County Superior Court, Case No. 345397, Respondent was convicted on her plea of nolo contendere of a violation of Penal Code section 243(b) (battery on a peace officer), a misdemeanor. This conviction was entered in the Alameda County Superior Court as follows:

a. On or about July 21, 2000, Respondent was arrested and charged with violations of Penal Code section 148(a) (resisting, delaying or obstructing a peace officer) and Penal Code section 243(b) (battery against a peace officer), both misdemeanor counts.

b. On or about October 25, 2000, in the matter of *People v. Julie Camille Apollo*, Case No. 345397 in Alameda County Superior Court, Respondent pleaded nolo contendere to battery on a peace officer under Penal Code section 243(b).

c. On or about October 25, 2000, Respondent was sentenced as follows: 30 days in county jail (sentence stayed); three years probation; and a \$100 fine.

1 d. The circumstances of the conviction are that on or about July 21,
2 2000, Respondent caused a disturbance and was asked to leave the premises of Patelco Credit
3 Union in Hayward, California. Respondent refused. When police officers responded to Patelco
4 Credit Union, Respondent committed a physical battery on a uniformed officer.

5
6 PRAYER

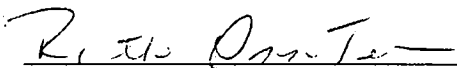
7 WHEREFORE, Complainant requests that a hearing be held on the matters herein
8 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

9 1. Revoking or suspending Registered Nursing License Number 516849,
10 issued to Julie C. Apollo;

11 2. Ordering Julie C. Apollo to pay the Board of Registered Nursing the
12 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
13 Professions Code section 125.3;

14 3. Taking such other and further action as is deemed necessary and proper.

15 DATED: 7/14/03

16
17 
18 RUTH ANN TERRY, M.P.H., R.N.
19 Executive Officer
20 Board of Registered Nursing
21 Department of Consumer Affairs
22 State of California
23 Complainant

22 03579110-SF032003AD0282
23 Apollo, Julie - Accusation.wpd
JAR; 04/02/03
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